IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

Bail Appl..No. 7492 of 2007

(CRIME NO. 327/2007 OF PAYANGADI POLICE STATION)

PETITIONERS

1. A.V.RAJESH, AGED 24 YEARS,
S/O. CHANDUKKUTTY, ARIPPAD HOUSE,
CHERUVICHERY, KADANNAPPALLI, KANNUR DIST.

2. C.V.SHYJU, AGED 21 YEARS,
S/O. BHASKARAN, CHERUVICHERY, KADANNAPPALLI,
KANNUR DIST.

3. K.P.RUPESH, AGED 23 YEARS,
S/O. KANNAN, KALATHIL PARAMBIL, KUNNARU,
RAMANDHALI.

4. B.MANI, AGED 20 YEARS, S/O. KUMARAN,
BALIKKULATHI HOUSE, CHERUVICHERY,
KADANNAPPALLI, KANNUR DISTRICT.

BY ADV. SRI.P.NARAYANAN

RESPONDENTS:

STATION HOUSE OFFICER,
PAYANGADI POLICE STATION, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/12/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7492 of 2007

Dated this the 6th day of December 2007

O R D E R

Application for anticipatory bail. Petitioners are accused 2,3,5 and 6. Altogether there are six accused persons. They face allegations in an F.I.R registered initially under Section 324 read with 149 I.P.C subsequently altered to Section 326 read with 149 I.P.C.

2. The short contention raised by the learned counsel for the petitioner is that even accepting the entire allegations, the raising of an allegation under Section 326 I.P.C which is the only non-bailable offence alleged is not justified at all. That allegation is being raised with transparently vexatious intent. The petitioners are in these circumstances entitled for anticipatory bail.

3. The learned Public Prosecutor, after perusing the case diary submits that though the Medical Officer has opined that the injury suffered is grievous, there is no virtual input which can show that the hurt suffered by the victim will fall under any of the limbs under Section 320 I.P.C. The wound certificate has

been perused by the learned Public Prosecutor and the statement of the doctor has been read over to me. There is no specific injury which can enable the prosecution now to contend that the hurt suffered falls under any of the limbs under Section 320 I.P.C.

4. I am satisfied, in these circumstances, that the petitioners are entitled for anticipatory bail. Appropriate conditions can of course be imposed.

5. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioners.

i) Petitioners shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 13/12/2007. They shall be released on regular bail on condition that they execute bonds for Rs.25,000/-(Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioners shall make themselves available for interrogation before the investigating officer between 10 a.m and 1 p.m on 14/12/2007 and 15/12/2007 and thereafter on all

Mondays and Fridays between 10 a.m and 12 noon for a period of one month. Subsequently the petitioners shall so appear as and when directed by the investigating officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law, as if these directions were not issued at all.

(iv) If they were arrested prior to 13/12/2007, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 13/12/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007